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June 21, 2004

CERTIFICATE OF MAILING  
37 C.F.R. 1.8

I certify that this correspondence is being deposited with the U.S. Postal Service with sufficient postage as First Class Mail in an envelope addressed to: MS Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date below:

June 21, 2004  
Date Robert E. Hanson

**MS AMENDMENT**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

RE: *U.S. Patent Application No. 10/730,764 entitled "PLANTS AND SEEDS OF CORN VARIETY LH370" – Terry J. Foley*  
*Our reference: HFSC:014US*  
*Client reference: 34-52 (51645)*

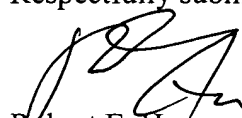
Sir:

Enclosed for filing in the above-referenced patent application is an Information Disclosure Statement, Form PTO-1449, and references A1-A26 and C1-C29.

No fees are believed to be due in connection with the filing of this Information Disclosure Statement, however, should any fees under 37 C.F.R. §§ 1.16 to 1.21 be deemed necessary for any reason relating to the enclosed materials, the Commissioner is authorized to deduct the appropriate fees from Fulbright & Jaworski Deposit Account No.: 50-1212/HFSC:014US.

Please date stamp and return the enclosed postcard evidencing receipt of these materials.

Respectfully submitted,

  
Robert E. Hanson  
Reg. No. 42,628

REH/kmv  
Encl.: as noted



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:  
Terry J. Foley

Serial No.: 10/730,764

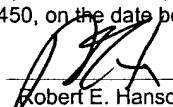
Filed: December 8, 2003

For: PLANTS AND SEEDS OF CORN  
VARIETY LH370

Group Art Unit: Unknown

Examiner: Unknown

Atty. Dkt. No.: HFSC:014US

CERTIFICATE OF MAILING 37 C.F.R. 1.8	
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June 21, 2004	
Date	Robert E. Hanson

**INFORMATION DISCLOSURE STATEMENT**

**MS AMENDMENT**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

Sir:

In compliance with the duty of disclosure under 37 C.F.R. § 1.56, it is respectfully requested that this Information Disclosure Statement be entered and the documents listed on attached Form PTO-1449 be considered by the Examiner and made of record. Copies of the listed documents required by 37 C.F.R. § 1.98(a)(2) are enclosed for the convenience of the Examiner.

In accordance with 37 C.F.R §§ 1.97(g), (h), this Information Disclosure Statement is not to be construed as a representation that a search has been made, and is not to be construed to be

an admission that the information cited is, or is considered to be, material to patentability as defined in 37 C.F.R. § 1.56(b).

LH370 was developed from an initial single cross of LH283 x HC40 followed by selfing and use of the pedigree system of plant breeding. Yield, stalk quality, root quality, disease tolerance, late plant greenness, late plant intactness, ear retention, pollen shedding ability, silking ability and corn borer tolerance were the criteria used to determine the rows from which ears were selected during the development of LH370.

LH283 is a proprietary field corn inbred line of Holden's Foundation Seeds, L.L.C., of Williamsburg, Iowa. LH283 was awarded PVPA certificate #970078 on May 29, 1998. U.S. Patent No. 5,773,683, issued June 30, 1998, also protects LH283. HC40 (LH82 x LH93), is a proprietary inbred line of F & E Enterprises, L.L.C., Lafayette, Indiana. There is an agreement between Holden's Foundation Seeds, L.L.C. and F & E Enterprises, L.L.C. which gives Holden's permission to use HC40 for breeding. On March 20, 1998 PVP application #9800167 was filed for HC40, however, the application was abandoned on July 1, 2002.

The present Information Disclosure Statement is being filed prior to the receipt of a first Official Action reflecting an examination on the merits, and hence is believed to be timely filed in accordance with 37 C.F.R § 1.97(b). No fees are believed to be due in connection with the filing of this Information Disclosure Statement, however, should any fees under 37 C.F.R. §§ 1.16 to 1.21 be deemed necessary for any reason relating to these materials, the Commissioner is authorized to deduct the appropriate fees from Fulbright & Jaworski Deposit Account No.: 50-1212/HFSC:014US.

Applicant respectfully requests that the listed documents be made of record in the present case.

Respectfully submitted,



Robert E. Hanson  
Reg. No. 42,628  
Attorney for Applicant

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600 Congress Avenue, Suite 2400  
Austin, Texas 78701  
(512) 474-5201

Date: June 21, 2004

Form PTO-1449 (modified)  
JUN 23 2004

List of Patents and Publications for Applicant's

INFORMATION DISCLOSURE STATEMENT

(Use several sheets if necessary)

Atty. Docket No.  
HFSC:014US

Serial No.  
10/730,764

Applicant  
Terry J. Foley

Filing Date:  
December 8, 2003

Group:  
Unknown

U.S. Patent Documents  
See Page 1

Foreign Patent Documents  
See Page 2

Other Art  
See Page 2

## U.S. Patent Documents

Exam. Init.	Ref. Des.	Document Number	Date	Name	Class	Sub Class	Filing Date of App.
	A1	3,903,645	9/09/75	Bradner	47	58	3/29/74
	A2	4,368,592	1/18/83	Welch	47	58	7/27/81
	A3	4,517,763	6/21/85	Beversdorf <i>et al.</i>	47	58	5/11/83
	A4	4,581,847	4/15/86	Hibberd <i>et al.</i>	47	58	4/15/86
	A5	4,594,810	6/17/86	Troyer	47	58	2/21/85
	A6	4,607,453	8/26/86	Troyer	47	58	2/21/85
	A7	4,626,610	12/02/86	Sun	800	1	1/11/85
	A8	4,629,819	12/16/86	Lindsey	800	1	4/26/85
	A9	4,642,411	2/10/87	Hibberd <i>et al.</i>	800	1	2/21/85
	A10	4,654,466	3/31/87	Lindsey	800	1	4/29/85
	A11	4,658,084	4/14/87	Beversdorf <i>et al.</i>	800	1	11/14/85
	A12	4,658,085	4/14/87	Beversdorf <i>et al.</i>	800	1	4/14/87
	A13	4,677,246	6/30/87	Armond <i>et al.</i>	800	1	4/26/85
	A14	4,731,499	4/15/88	Puskaric <i>et al.</i>	800	1	1/29/87
	A15	4,737,596	4/12/88	Seifert <i>et al.</i>	800	1	1/29/87
	A16	5,276,262	1/04/94	Arthur and Johnson	800	200	11/25/91
	A17	5,276,263	1/04/94	Foley	800	200	12/06/91
	A18	5,304,717	4/19/94	Miller	800	200	12/06/91
	A19	5,436,387	7/25/95	Arthur <i>et al.</i>	800	200	10/21/93
	A20	5,523,520	6/04/96	Hunsperger and Holtrop	800	200	6/24/94
	A21	5,714,671	2/03/98	Peters	800	200	7/12/96
	A22	5,731,504	2/24/98	Foley	800	200	10/04/96
	A23	5,750,850	5/12/98	Foley	800	200	12/05/96

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EXAMINER: INITIAL IF REFERENCE CONSIDERED, WHETHER OR NOT CITATION IS IN CONFORMANCE WITH MPEP609; DRAW LINE THROUGH CITATION IF NOT IN CONFORMANCE AND NOT CONSIDERED. INCLUDE COPY OF THIS FORM WITH NEXT COMMUNICATION TO APPLICANT.

Form PTO-1449 (modified)	Atty. Docket No. HFSC:014US	Serial No. 10/730,764
List of Patents and Publications for Applicant's  INFORMATION DISCLOSURE STATEMENT  (Use several sheets if necessary)	Applicant Terry J. Foley	
	Filing Date: December 8, 2003	Group: Unknown
U.S. Patent Documents <i>See Page 1</i>	Foreign Patent Documents <i>See Page 2</i>	Other Art <i>See Page 2</i>

### U.S. Patent Documents

Exam. Init.	Ref. Des.	Document Number	Date	Name	Class	Sub Class	Filing Date of App.
	A24	5,767,341	6/16/98	Eggerling	800	200	12/05/96
	A25	5,773,683	6/30/98	Foley	800	200	12/06/96
	A26	6,091,007	7/18/00	Hoffbeck and Hohnstrater	800	320.1	3/10/98

### Foreign Patent Documents

Exam. Init.	Ref. Des.	Document Number	Date	Country	Class	Sub Class	Translation Yes/No

### Other Art (Including Author, Title, Date Pertinent Pages, Etc.)

Exam. Init.	Ref. Des.	Citation
	C1	Armstrong & Green, "Establishment and Maintenance of Friable Embryogenic Maize Callus and the Involvement of L-Proline," <i>Planta</i> , 164:207-214, 1985.
	C2	Beckmann and Soller, "Restriction Fragment Length Polymorphisms in Plant Genetic Improvement," <i>Oxfors Surveys of Plant Molecular &amp; Cell Biology</i> , 3:196-250, 1986.
	C3	Conger <i>et al.</i> , "Somatic Embryogenesis from Cultured Leaf Segments of <i>Zea Mays</i> ," <i>Plant Cell Reports</i> , 6:345-347, 1987.
	C4	Duvick, "Genetic Contributions to Yield Gains of U.S. Hybrid Maize, 1930 to 1980," <i>Genetic Contributions to Yield Gains of Five Major Crop Plants: Proceedings of a Symposium sponsored by Div. C-1, Crop Science Society of America, December 2, 1981 in Atlanta, Georgia; W.R. Fehr, Crop Science Society of America and American Society of Agronomy, Madison, Wisconsin</i> , pp. 15-47.
	C5	Edallo <i>et al.</i> , "Chromosomal Variation and Frequency of Spontaneous Mutation Associated with <i>in vitro</i> Culture and Plant Regeneration in Maize," <i>Maydica</i> , 26:39-56, 1981.
	C6	Eshed and Zamir, "Less-than-addictive epistatic interactions of quantitative trait loci in tomato," <i>Genetics</i> , 143:1807-1817, 1996.
	C7	Fehr (ed.), <i>Principles of Cultivar Development, Vol. 1: Theory and Technique</i> , pp. 360-376, 1987.

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U.S. Patent Documents <i>See Page 1</i>	Foreign Patent Documents <i>See Page 2</i>	Other Art <i>See Page 2</i>	

### Other Art (Including Author, Title, Date Pertinent Pages, Etc.)

Exam. Init.	Ref. Des.	Citation
	C8	Gaillard <i>et al.</i> , "Optimization of maize microspore isolation and culture condition for reliable plant regeneration," <i>Plant Cell Reports</i> , 10(2):55, 1991.
	C9	Gerdes and Tracy, "Diversity of historically important sweet corn inbreds as estimated by rflp's, morphology, isozymes, and pedigree," <i>Crop Science</i> , 34(1):26-33, 1994.
	C10	Gordon-Kamm <i>et al.</i> , "Transformation of maize cells and regeneration of fertile transgenic plants," <i>The Plant Cell</i> , 2:603-618, 1990.
	C11	Green & Phillips, "Plant regeneration from tissue cultures of maize," <i>Crop Science</i> , 15:417-421, 1975.
	C12	Green & Rhodes, "Plant regeneration in tissue cultures of maize," <i>Maize for Biological Research</i> , ed. W.F. Sheridan, A Special Publication of the Plant Molecular Biology Association, pp. 367-372, 1982.
	C13	Hallauer <i>et al.</i> , "Corn Breeding," <i>Corn and Corn Improvement</i> , eds., Sprague <i>et al.</i> , Madison, Wisconsin, Ch. 8, pp. 463-564, 1988.
	C14	Kraft <i>et al.</i> , "Linkage disequilibrium and fingerprinting in sugar beet," <i>Theor. Appl. Genet.</i> , 101:323-326, 2000.
	C15	Larson & Hanway, "Corn Production," <i>Corn and Corn Improvement</i> , ed. G.F. Sprague, No. 18 in Agronomy Series, American Society of Agronomy, Inc., Madison, Wisconsin, pp. 625-669, 1977.
	C16	Meghji <i>et al.</i> , "Inbreeding depression, inbred and hybrid grain yields, and other traits of maize genotypes representing three eras," <i>Crop Science</i> , 24:545-549, 1984.
	C17	Pace <i>et al.</i> , "Anther culture of maize and the visualization of embryogenic microspores by fluorescent microscopy," <i>Theoretical and Applied Genetics</i> , 73:863-869, 1987.
	C18	Phillips <i>et al.</i> , "Cell/tissue culture and <i>in vitro</i> manipulation," <i>Corn and Corn Improvement</i> , eds., Sprague <i>et al.</i> , Ch. 5, pp. 345-387, 1988.
	C19	Poehlman & Sleper (eds), <i>Breeding Field Crops</i> , 4th Ed., pp. 172-175, 1995.
	C20	Poehlman, <i>Breeding Field Crops</i> , 3rd ed., AVI Publishing Company, Westport, Connecticut, pp. 469-481, 1987.
	C21	Rao <i>et al.</i> , "Somatic embryogenesis in glume callus cultures," <i>Maize Genetics Cooperation Newsletter</i> , Vol. 60, 1986.

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### Other Art (Including Author, Title, Date Pertinent Pages, Etc.)

Exam. Init.	Ref. Des.	Citation
	C22	Rhodes <i>et al.</i> , Genetically transformed maize plants from protoplasts," <i>Science</i> , 240:204-207, 1988.
	C23	Rieger <i>et al.</i> , <i>Glossary of Genetics and Cytogenetics, Classical and Molecular</i> , Springer-Verlag, Berlin, p. 116, 1976.
	C24	Smith and Smith, "Restriction fragment length polymorphisms can differentiate among U.S. maize hybrids," <i>Crop Sci</i> , 31:893-899, 1991.
	C25	Sprague & Eberhart, "Corn Breeding," <i>Corn and Corn Improvements</i> , ed. G.F. Sprague, No. 18 in Agronomy Series, American Society of Agronomy, Inc., Madison, Wisconsin, pp. 305-323, 1977.
	C26	Troyer, "A retrospective view of corn genetic resources," <i>Journal of Heredity</i> , 81:17-24, 1990.
	C27	Wright, "Commercial hybrid seed," <i>Hybridization of Crop Plants</i> , Fehr <i>et al.</i> , eds. Am. Soc. of agron.-Crop Sci. Soc. of Am., Madison, Wisconsin, Ch. 8, pp. 161-176, 1980.
	C28	Wych, "Production of hybrid seed corn," <i>Corn and Corn Improvement</i> , eds., Sprague <i>et al.</i> , editors, Madison, Wisconsin, Ch. 9, pp. 565-607, 1988.
	C29	Plant Variety Protection Certificate No. 9700078 for Inbred Corn Line LH283, issued May 29, 1998.

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